

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
NORTHERN DIVISION

NO. 2:18-CR-21-FL

UNITED STATES OF AMERICA,

v.

ALVIN JOHNSON,

Defendant.

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ORDER

This matter is before the court on defendant's motion for return of seized finances, (DE 50). The motion was fully briefed.

On May 21, 2019, the court sentenced defendant to 128 months' imprisonment, following his conviction for possession with intent to distribute a quantity of cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and b(1)(C). On August 15, 2019, defendant filed the instant motion seeking return of \$4,260.00 in United States currency seized during his arrest.<sup>1</sup> The government timely responded to the motion, stating that it did not take custody of the currency after defendant's arrest, and noting the Pasquotank County Sheriff's Office plans to transfer the subject currency to the North Carolina Department of Revenue to satisfy a controlled substances tax. On September 27, 2019, the government filed notice of additional filing, which includes a cashier's check from the Pasquotank County Sheriff's Office to the Department of Revenue in the amount of \$4,259.00, with defendant's name in the memo line. The government also filed a Department of Revenue Warrant for Collection of Taxes as to defendant, (Case No. P58124), which states defendant is

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<sup>1</sup> Defendant has appealed the court's judgment of conviction. The filing of a notice of appeal typically divests the district court of jurisdiction "over those aspects of the case involved in the appeal." See Griggs v. Provident Consumer Discount Co., 459 U.S. 56, (1982). Having reviewed the appellate docket, the court concludes that the instant motion is not directed to any issues involved in the appeal.

indebted to the State of North Carolina for unpaid taxes in the amount of \$24,321.13.

On October 9, 2019, defendant filed correspondence he received from the North Carolina Department of Revenue, stating that the Warrant for Collection of Taxes (Case No. P58124) was issued in error. The Department of Revenue's correspondence also states that the cashier's check for \$4,259.00 was returned to the Pasquotank County Sheriff's Office on October 1, 2019.

In light of the foregoing, and where the government previously has undertaken efforts to inform the court of the Pasquotank County Sheriff's Office's disposition of the subject currency, the court DIRECTS the government to file response to defendant's supplemental notice, (DE 57), within **21 days** of entry of this order. The government's response shall address 1) whether the Pasquotank County Sheriff's Office received the returned cashier's check for \$4,259.00; 2) whether the Pasquotank County Sheriff's Office intends to return the seized currency to defendant; and, if necessary, 3) the court's jurisdiction to order return of the seized property, particularly in light of defendant's position that the currency was seized by federal agents, (see DE 55). Defendant may file reply within **14 days** of his receipt of the government's response. The court HOLDS IN ABEYANCE defendant's motion for returned of seized finances, (DE 50), pending the court's receipt of the additional briefing.

SO ORDERED, this the 12th day of November, 2019.

  
LOUISE W. FLANAGAN  
United States District Judge